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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,096	07/30/2003	Birgit Kufner	P03,0274	8482

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SCHIFF HARDIN, LLP  
PATENT DEPARTMENT  
6600 SEARS TOWER  
CHICAGO, IL 60606-6473

EXAMINER

PENDLETON, DIONNE

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,096

Applicant(s)

KUFNER, BIRGIT

Examiner

Dionne N. Harvey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-14 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 15, 16, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-5, 8-14 and 17-21** are rejected under 35 U.S.C. 102(e) as being anticipated by **Aceti (US 6,473,511)**.

Regarding claim 1, in **figure 6B**, Aceti teaches a hearing aid device, comprising: a device housing **74**; a voltage source **24** with a voltage source housing **78**, the voltage source comprising at least one ventilation opening **68** for providing ventilation in the voltage source housing; and a ventilation mechanism **62** configured to enable repeatedly enable and prevent the ventilation of the voltage source without disassembling the housing or battery bay, **see column 10, lines 22-32**.

Regarding claim 2, Aceti teaches that the ventilation mechanism comprises an open-close mechanism **62**, which through a pulling action, opens the vent, thus reading on “configured to open or close the ventilation opening of the voltage source.”

Regarding claim 3, Aceti teaches that the open-close mechanism **62** comprises “at least one seal element” **60**, that can be moved inward or outward relative to the

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voltage source for closing the vent opening in a first position and for opening the vent opening in a second position.

Regarding claim 4, Aceti teaches that the open-close mechanism may be pulled into a closed position, thereby teaching “a turning or sliding element.”

Regarding claim 5, in **column 9, lines 62-67 & column 9, lines 7-16**, Aceti teaches that the hearing device may be provided with an electronic ON/OFF switch and further teaches that the ON/OFF switch may be used with an air block switch for opening and closing air access to the voltage source of the hearing device.

Regarding claim 8, Aceti teaches a battery case **74** configured to accept the voltage source **24**, wherein the battery is sealed within the casing in an essentially air-tight manner such that only by manipulation of pull cord **62**, will air be transmitted to the battery source.

Regarding claim 9, Aceti teaches that the battery case ventilation device comprising a battery case ventilation mechanism **60-62** for closing the vents of the battery case, thereby teaching “configured to enable or prevent the ventilation of the battery case”

Regarding claim 10, Aceti teaches that the battery case ventilation device comprises at least one adjustable seal element **60**.

Regarding claim 11, Aceti teaches that the seal element is pushable or “sliding” element by which the air is blocked from the voltage source or transmitted to the voltage source.

Regarding claim 12, Aceti teaches that the open-close mechanism **62,60** functions to inhibit and permit the flow of air to the voltage source, thereby interpreted as reading on “a valve”.

Regarding claim 13, Aceti teaches that the ON/OFF air block switch **62** is connected to the seal element **60**.

Regarding claim 14, Aceti teaches that the ON/OFF air block switch **62** is configured to adjust the seal element **60**.

Regarding claim 17, Aceti teaches a sealing device **60** with at least one closeable sealing device opening **68** that encloses the ventilation opening of the voltage source **24**; and an open-close mechanism **62** to open or close the sealing device opening.

Regarding claim 18, Aceti teaches that the open-close mechanism **62** comprises pullable element for sliding out of the wearer's ear canal, which is broadly interpreted as reading on “a turning or sliding element.”

Regarding claim 19, Aceti teaches that the open-close mechanism **62,60** functions to both, inhibit and permit the flow of air to the voltage source, thereby interpreted as reading on “a valve”.

Regarding claim 20, **in column 9, lines 62-67**, Aceti teaches that the open-close air-flow mechanism may be used with, thereby “comprises” an on/off switch for the hearing aid device.

Regarding claim 21, in column 8, lines 57-67, Aceti teaches prior well known devices wherein by opening the flow of air to the voltage source, the hearing device is automatically turned ON.

***Allowable Subject Matter***

2. Claims 6,7,15,16,22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Narisawa (**US 5,187,746**) teaches a battery chamber having a removable cover.

Narisawa (**US 6,041,128**) teaches a battery chamber having a removable cover

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N. Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
D.H.

  
SUHAN NI  
PRIMARY EXAMINER